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To: Microsoft ATR
Date: 1/23/02 1:54pm
Subject: Microsoft Settlement

To: Renata B. Hesse
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Under the Tunney Act, I wish to comment on the proposed Microsoft settlement.

I have a few concerns with the REVISED PROPOSED FINAL JUDGMENT (RPFJ) [found at the following web address <http://www.usdoj.gov/atr/cases/f9400/9495.htm>]. On the whole, I do not believe that it will remedy Microsoft Conduct.

1. The RPFJ Section III - D release of the API has two basic issues. The release of the information is via ("MSDN") or similiar is current status quo. MSDN is a subscription system - so release of such information is not readily available. The timing of the release is not competitive. It allows Microsoft (i.e. Microsoft Office) access to such APIs across its product line before other have access to it, yielding unfair advantage in software development for Microsoft in any area of competing software.
2. The RPFJ Section III - J provides an escape mechanism for the disclosure of Microsoft API, Documentation and/or Communications Protocols, by labeling such as security compromises. This broad loophole may be used to hide certain API and can place a significant burden on Enforcement Authority to oversee differences between general and security.
3. The RPFJ does nothing for opening up other areas (i.e. File Formats) where Microsoft uses its OS monopoly as an unfair advantage.

Sincerely,

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